

A Modest
EXAMINATION
Of the
NEW OATH
OF
ALLEGIANCE.

By a *DIVINE* of the Church of England.



London, Printed for Randal Taylor near Stationers
Hall, in the Year. MDCLXXXIX.

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THE
OATH of ALLEGIANCE.

I A. B. Do sincerely promise and swear, that I will be faithful, and bear true Allegiance to their Majesties King WILLIAM and Queen MARY: So help me God.

Quære.

What is meant by this Allegiance? And what is it that we promise when we take this Oath?

The Resolution.

The word (*Allegiance*) being a Term of Art is variously rendred. But we are not to trouble our selves with the sense of it amongst the *Fendists*, from whom it was borrowed, but are rather to examine what it may signify, according to present Use and Custom here in England.

Now this word [*Allegiance*] as applyed to King William and Queen Mary in this Oath, can denote no other then one of these Two Things.

1. An acknowledgment of their Title. Or,
2. Submission and Obedience to their Government.

If the former, then the sense of the Oath is this.

I A. B. Do truly and sincerely acknowledge, profess testify and declare in my Conscience before God and the world, that our Sovereign Lord and Lady King WILLIAM and Queen MARY are lawful and rightful King and Queen of this Realm, and of all other their Majesties Dominions and Countries : and that I will bear Faith and true Allegiance to their Majesties as such.

If the latter, then the sense of the Oath seems only to be this.

Whereas at present I am under the Government, and enjoy the Protection of King WILLIAM and Queen MARY, I do faithfully promise to submit to this their Government. And that I will not contrive, attempt or encourage any act of Hostility, against them : But living quietly and peaceably, as a good Subject, in obedience to the Laws, will promote the safety of my Country, and the Preservation of Religion and Civil Society.

Now since all Oaths and Promises are to be taken in the sense of the Imposer, we are next to inquire Whether of these Two Senses is intended by this Oath ?

I think the latter, and not the former. For these Reasons.

1. Had the framers of this Oath any such Design viz. To impose an acknowledgment of the King and Queens Title : they might then easily have made use of such expressions, as would have put the matter out of all Doubt. Or else, *mutatis mutandis*, they might have proposed the former Oath of Allegiance,

wherein

wherein the King's Title is exprestly acknowledged. Which since they have not done, it seems highly probable they had no such intention.

2. The very Form of the Oath, viz. *I do promise* — *I will be faithful and bear true Allegiance* — seems to exclude such a Sense. For the Subject matter of a Promise is something that is future not present. And consequently this Oath, being not *Affertory* but *Promissory*, doth plainly respect our future carriage and behaviour; and is not Declarative of our present Sentiment and Opinion. So that if by this word *Allegiance* were meant the acknowledging of their Title; put it into plain Language, and observe how harsh and improper it would be. viz.

A. B. Do sincerely promise, it is my Sentiment and Opinion; That King *William* and Queen *Mary* have a just and lawful Title. Where 'tis evident, that had this Oath been framed to establish the King and Queen's Title, the word should have been *Declare or Acknowledge* instead of *Promise*.

3. This is yet further suggested by reflecting on the former Oath of Allegiance. Which being both *Affertory* and *Promissory*, doth consist of Two Parts. 1. A recognition of the King's Title. 1.

A promise of future Allegiance and Obedience. Plainly denoting that these are Two Things; different and distinct each from other.

However, you will say, 'tis sufficiently intimated hereby; That the King's Title is the true and only ground of our Allegiance: and consequently, if King **WILLIAM**

and

and Queen MARY have, as yet, no lawful Title; it is then unlawful to take this Oath; and to swear Allegiance to them.

Answer.

ANSWER.

THE Title of King William and Queen Mary is not now to be disputed. Those who are dissatisfied may consult the Two Houses: Who are best able to resolve such Scruples, and to vindicate the Justice of their own Proceedings. But private Persons need not trouble their heads about Titles. 'Tis sufficient for such to know; That King William and Queen Mary are *de facto* King and Queen; And therefore, by the Laws and Statutes of this Realm, there is an Allegiance due to them.

By the Statute of 25 E. 3. *De proditionibus*, is declared in certain particular Cases, what Offences shall be taken to be Treason. viz. *Exit compasser ou imaginer la mort nostre Seignior le Roy, Madame sa Compaigne, &c. Ou si home leve guerre encontre nostre Seignior le Roy en son Realm ou soit aidant as ennemis nostre dit Seignior le Roy en son Realme, donnant a eux aid, ou comfort en son Royaume; ou per aylours.* That is to say, when a Man doth compass or imagine the Death of our Lord the King, of my Lady his Queen, &c. Or if a Man do levy War against our Lord the King in his Realm, or be adherent to the Kings Enemies in his Realm, giving to them aid and comfort in the Realm or elsewhere, such a Man is declared, by this Act, to be guilty of High Treason.

Observe

Observe now Sir Edw. Coke's Exposition of this Statute.

¶ *Nostre Seignior le Roy*] This Act is to be understood of a King in possession of the Crown and Kingdom: for if there be a King regnant in possession, although he be *Rex de Facto, & non de Jure*, yet is he *Seignior le Roy* within the purview of this Statute. And the other that hath Right, and is out of possession, is not within this Act. Say if Treason be committed against a King *de Facto, & non de Jure*, and after the King *de Jure*, cometh to the Crown, he shall punish the Treason done to the King *de Facto*: And a Pardon granted by a King *de Jure* that is not also *de Facto*, is void. 3. Part. of the Institutes, pag. 7.

From which Words this Remark is obvious.

If it be High Treason to compass or imagine the Death of King William and Queen Mary (who are *de Facto* King and Queen; as being in Possession of the Crown and Kingdom.) If it be High Treason to levy War against King William and Queen Mary; If it be High Treason to adhere, to give aid and comfort to the Enemies of King William and Queen Mary in the Realm or elsewhere; then it undenyably follows (according to my Lord Coke's Exposition of this Statute) That it is the Duty of the People of these Nations to Protect and Defend King William and Queen Mary. To do their best endeavour to disclose and make known unto their Majesty's, all Treasons and Traiterous Conspiracies against them, and consequently, There is a Duty, an Homage and Allegiance due to them.

OBJECTION.

But is not this a strange Gloss, thus to encourage Usurpation; and to fix the Crown upon the Point of the Sword? Sir Edw. Coke, though otherwise a great Man, had his Passions and his Errors: And may not this justly be rejected as one of his Mistakes?

A N S W E R.

I was at first much startled at this Passage. But having observed, that not only Sir Edw. Coke, but all others who write of the Pleas of the Crown do give the same Exposition, I began to cool in my Censures. And since — *peritis in sua arte* — I thought it most modest to suspect my own Judgment; and did rest satisfied, that there was some weighty Reason (were I able to explain it) why these Sages of the Law did thus Determine.

From these Premises I infer.

That even those who are dissatisfied with the Proceedings of the CONVENTION; and who are of Opinion, That King JAMES by withdrawing his Person, did not Abdicate the Government; I say, even those very Persons (according to that Exposition of 29. Edw. 3.) may lawfully Promise and Swear Fidelity and true Allegiance to their Majesties, King WILLIAM and Queen MARY; who are at least de facto King and Queen; and are undoubtedly in Possession of the Crown and Kingdom